Remarks/Arguments

Claims 1-21 are pending in this application. No amendments have been made to the claims in this response.

Re: Rejection of Claims 1, 7-9, 15 and 16 under 35 U.S.C. §103(a)

Claims 1, 7-9, 15, and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over US6987221 issued to Platt (hereinafter, "Platt") in view of US5926789 issued to Barbara (hereinafter, "Barbara"). Applicants respectfully traverse this rejection for at least the following reasons.

Applicants note that in a previous rejection dated August 2, 2010, the examiner rejected the subject claims based on the same references, except that the Barbara reference was cited as the primary reference in view of the Platt reference. Applicants respectfully submit that the subject claims are patently distinguishable over the teachings of any combination of these two references.

First, Applicants submit that the proposed combination of references fails to produce the claimed invention.

The teachings of Platt and Barbara have been discussed in detail in Applicants' previous response dated October 18, 2010. Applicants maintain the discussion of Platt and Barbara therein. Additional discussion of the references as applied to the present invention is provided below.

In summary, the present invention relates to a system and method for facilitating user generation of a playlist comprising audio data files. A notable feature of the present invention is that the system allows the user to **listen to audio clips** from a selected set of audio data files in order to decide whether to include a particular audio data file in the playlist. The invention provides for automatically playing sequentially an audio clip from each of the audio data files in the selected set, and adding a respective song in response to user input **while** the clip is being played. The fact that the user can listen

to an audio clip and add the associated song to the playlist while it is playing allows the user to more easily identify and add the songs to the playlist. In that regard, Claim 1 recites:

> *A method of compiling a playlist of digital audio data files using a digital audio data player, the method comprising the steps of:*
>
> *enabling a user to select a set of digital audio data files for potential inclusion in the playlist via a user input device associated with the digital audio data player;*
>
> **automatically playing sequentially an audio clip from each one of the user-selected set of digital audio data files** *via an audio output device associated with the digital audio data player;*
>
> *detecting whether a user input is received via the user input device **while** each one of the audio clips is being played; and*
>
> *including identifying data for the digital audio data file associated with a currently playing audio clip in the playlist **in response to detecting the user input while the currently playing audio clip is being played.** (emphasis added).*

Applicants submit that Platt and Barbara, singly and in combination, fail to disclose or suggest each and every limitation of claim 1, in particular those emphasized above.

<u>Platt fails to teach the feature of adding a song to the playlist in response to user input while a currently playing audio clip is being played.</u>

The examiner contends that Platt teaches:

"... playing an audio clip from each one of the user selected set of digital audio data files via an audio output device associated with the digital audio data player (Platt: column 6, lines 60 to 67; figure 4; operation of preview button 440)

detecting whether a user input is received via the user input device while each one of the audio clips is being played (Platt: column 6, lines 40 to 46; figure 4: user operation of pad button 450 during preview); and

including identifying data for the digital audio data file associated with a currently playing audio clip in the playlist in response to detecting the user input while the currently playing audio clip is being played (Platt: column 5, lines 57 to 67: metadata included with track added into playlist upon operation of pad 1 by user)."

Applicants respectfully submit that the Office Action misapplies the teachings of Platt, and that Platt in fact does not disclose or suggest the feature of adding a song to a playlist in response to user input while a currently playing audio clip is being played.

Platt relates to a system for generating a playlist based on seed items, in this case representative songs, entered by the user. Platt is concerned with **automatic** generation of a playlist and seeks to reduce the effort required by the user to manually add or remove items from the playlist (column 1, lines 57 to 67). To address this goal, Platt provides a system wherein once a user has entered a seed item, or a plurality of seed items, the system automatically generates a playlist based on similarity values, or dissimilarity values associated with that particular seed item or plurality of seed items.

Thus, it is clear that Platt is concerned with the operation of the system **after** a user has entered a particular seed item, or items, into the playlist. However, Platt does not appear to be concerned with facilitating user entry of a particular song as the seed item. In fact, Platt appears to describe the conventionally known method for entering a particular song into a playlist, that is, by selecting a song from a list of songs and selecting an input button that adds the song to the playlist.

The portions of Platt cited by the examiner reinforce the view that the method for entering a song into a playlist disclosed by Platt corresponds to a conventionally known method.

For example, column 6, lines 40-42 states, "[o]n selecting a track, a user can perform a number of actions on that selected track -- the user can add it to the playlist by clicking on the add button 450." That is, the user selects a particular track from a list of tracks

and then adds that track to the playlist using the add button 450. This correspond to the usual method of selecting a song and then adding it to the playlist.

Column 6, lines 60 to 67 mentions the use of a preview button 440 to allow a user to preview or listen to a short version of the selected song. Platt states, column 6, lines 62 to 67, "by clicking on a preview button 440, a preview or short version of the selected track (e.g., playing 10 seconds of a song 30 seconds into the song) is played therein **facilitating the user determining a preference or non-preference** for the selected track name. (emphasis added)" However, there is no connection, either explicit or implied, between the operation of the preview button and add button. That is, Platt says nothing regarding the use of the add button 450 **during** the playback of the preview.

The examiner alleges that these citations show that Platt teaches "... user operation of add button 450 **during** preview." (emphasis added). Applicants respectfully disagree with such a characterization. The cited portions clearly, on their face, do not teach such a feature. Given that Platt is primarily concerned with how the playlist is automatically generated **after** the seed item is entered, and that there is no specific mention of operating the add button during the preview, it is entirely reasonable to conclude that Platt simply does not contemplate such an operation.

Second, the office action acknowledges that Platt fails to teach automatic playback of user selected set of digital audio data files in sequence. Barbara is cited to overcome this deficiency of Platt. Applicants respectfully submit that Barbara also fails to disclose or suggest this feature.

Barbara is directed to a system for enabling a user to navigate through audio data, or pages, based on a client-server based wide area information system (col. 1, lines 52-54). The audio pages are indexed via a directory service, and a searchable directory is presented to the user, wherein the directory is organized in a hierarchical manner (col. 1, line 64 – col. 2, line 3; col. 4, lines 1-7; col. 4, lines 30-56).

Nowhere does Barbara teach or suggest providing automatic playback of the user selected set of digital audio files in sequence, and in particular, in the context of selecting digital audio files for inclusion in a playlist.

None of the portions of Barbara cited by the Office Action provide any hints or suggestions in this regard.

For example, Col. 3, lines 34, 35, state: "Client: "You selected the music directory. All kinds of music can be reached from here." This portion of Barbara (col. 3, lines 23-65) describes the various options presented to the user to enable the user to navigate through the hierarchical directory. Nowhere does this portion mention or suggest the recited feature of providing automatic playback as alleged.

Similarly, col. 4, lines 63-65 state: "Each hyperaudio link is associated with a portion of the audio track of an audio page, in the same manner that a hypertext link in the WWW is associated with a highlighted portion of the text on a page." This portion describes the fact that the hyperaudio link is associated with a portion of the audio track of a particular audio page. Nowhere does this portion mention or suggest the recited feature of providing automatic playback as alleged.

Fig 3, cited by the office action is actually contrary to the feature of providing automatic playback of a selected set of digital audio data files. The figure illustrates the concept of "dynamic windowing" used by Barbara wherein the options presented to the user depends on a time based window of the past k links (col. 5, lines 2-27). Once presented with the list of limited k links, the user then selects one of the provided options. There is no mention or suggestion of providing the recited feature of providing automatic playback as alleged.

Fig 5 also cited by the office action illustrates a flowchart of the operation of the system in providing a set of links in the directory page, and user selection of one of the provided options. Again, there is no mention or suggestion of providing the recited feature of providing automatic playback as alleged.

It is clear, that taken together, the above citations do not disclose or suggest that "... a user navigates to a directory of hyperlinked audio comprising previews of audio tracks which are automatically played sequentially" as asserted by the Office Action.

In view of the above, Applicants submit that Barbara fails to disclose or suggest the missing feature, and as such, the pending claims are patentably distinguishable over any combination of Platt and Barbara.

Finally, Applicants respectfully submit that the suggested combination of Platt with the alleged feature of Barbara is improper because Platt in fact teaches away from such a combination of features.

The Office Action asserts that "[t]he average skilled practitioner would have been motivated to utilize a known technique such as sequential playback of media to improve or expand the interface of Platt as taught or suggested by Bar." However, as discussed in Applicants' previous response, such reasoning is contrary to the goal of Platt, which is to automatically generate a playlist so that "... a user is not required to manually search through a collection of media items and select those items that meet the user's current mood or desire in order to generate the playlist" (Platt; col. 2, lines 33-37).

Platt seeks to overcome the need to manually search through a set of data files by automatically generating playlists in view of similarity or dissimilarity based on seed items selected by the user. The user identifies particular seed items which suit his/her purpose and then the system automatic generates the playlist in response. Modifying Platt by requiring a user to listen to an automatic playback of a set of audio data files and then select each song associated with a particular audio clip that the user wants to include in the playlist essentially amount to manual selection of songs for a playlist in view of Platt. This is precisely the type of operation that Platt seeks to obviate.

The broad generalization that one skilled in the art would modify Platt to improve or expand the interface of Platt substantially ignores the goal or purpose of the arrangement of Platt. In view of the above, Applicants respectfully submit that one

skilled in the art would not be motivated to modify the teachings of Platt as suggested by the Office Action.

The lack of motivation to combine Platt and Barbara is further supported by the fact that Barbara does not address the problem of *how to create a playlist using a digital audio data player*, as claimed. Barbara is directed towards searching a directory of audio web pages using a voice prompted user interface. Accordingly, one of ordinary skill in the art, when faced with the problem of *how to create a playlist using a digital audio data player*, would not be motivated to examine art, such as Barbara which is directed towards solving a completely different problem.

Accordingly, claim 1 and its dependent claims are patentably distinguishable over Barbara and Platt. The remaining independent claims, and the claims that depend on them, recite the above-referenced features and are believed to be patentably distinguishable over Barbara and Platt for the same reasons as discussed with respect to claim 1.

Claims 8 and 15 recite features similar to those of claim 1 discussed above, and thus, for the same reasons as those applied to claim 1, Applicants submit that claims 8 and 15, and the claims that depend therefrom, are also patentably distinguishable over any combination of Platt and Barbara.

Re: Rejection of Claims 2-5, 10-13, 17-20 under 35 U.S.C. §103(a)

Claims 2-5, 10-13, 17-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Platt in view of Barbara as applied to claims 1, 8, 15 above and further in view of Heo (US Patent 7,046,588). Applicants respectfully traverse this rejection for at least the following reasons.

Applicants respectfully traverse this rejection since Heo is unable to remedy the deficiencies of Platt and Barbara explained above in conjunction with independent claims 1, 8 and 15. Accordingly, withdrawal of the rejection is respectfully requested.

Re: Rejection of Claims 6, 14, 21 rejected under 35 U.S.C. §103(a)

Claims 6, 14, and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Platt in view of Barbara as applied to claims 1, 8, 15 above and further in view of Novelli (US 2003/0144918).

Applicants respectfully traverse this rejection since Novelli is unable to remedy the deficiencies of Platt in view of Barbara explained above in conjunction with independent claims 1, 8 and 15. Accordingly, withdrawal of the rejection is respectfully requested.

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Conclusion

In view of the foregoing remarks/arguments and accompanying amendments, the Applicants believe this application stands in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicants' attorney at (609) 734-6815, so that a mutually convenient date and time for a telephonic interview may be scheduled.

It is believed that there are no additional fees due with regard to the filing of this response. However if an additional fee is due, please charge the fee, or credit any overpayment, to Deposit Account No. 07-0832.

Respectfully submitted,

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